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ABSTRACT

This report summarizes major rule making actions since 1972, current rules and regulations, and guidelines for citizen participation in FCC (Federal Communications Commission) processes related to cable television regulation. A large portion of the report pertains to current rules and regulations in the areas of certificate of compliance, franchising standards, definition of cable television system, signal carriage, program exclusivity, pay cable, regulation of nonbroadcast channels, cable system ownership, technical performance requirements, pole attachment, microwave auxiliary facilities, and equal employment opportunity in cable television systems. Also described are procedures for public participation in regulatory processes via applications for certificates of compliance, petitions for waiver of the rules of other special relief, and orders to show cause. (Author/SC)

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Regulatory Developments in Cable Television

This report summarizes maior rule making actions since 1972, current rules and regulations, and guidelines for citizen participation in FCC processes related to cable television regulation.

Policy Review &
Development Division

Cable Television Bureau
Federal Communications Commission
Washington, DC
April 1976

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1 Summary of Post-1972 Rule Makings

The Cable Television Report and Order, effective March 31, 1972, provided the first comprehensive set of federal rules and regulations for cable television service and cable television relay service. In the conclusion of that document, the Commission stated: "Cable television is an emerging technology that promises a communications revolution. Inevitably, our regulatory pattern must evolve as cable evolves--and no one can say what the precise dimensions will be." Cable Television Report and Order, 36 FCC 2d 143, para. 189, 37 Fed. Reg. 3252 (1972).

During the past four years of operational experience with the new rules, the Commission has lent support to its 1972 observation. It has issued a total of 65 decisions amending and clarifying various sections of the rules concerning cable television. The major subject areas of these decisions include franchise standards, signal carriage, pay cable, cross-ownership, network and syndicated program exclusivity, origination cablecasting, channel capacity and access channel requirements, and public inspection files maintained by cable television systems. A number of amendments were made also to technical standards, cable television relay service requirements, and procedural rules.

Some rule making developments have been the result of recommendations of two task forces--"Re-regulation" and "1977"--established in May 1974. The purpose of the Re-regulation Task Force is to review the Commission's experience with each of the cable television rules and reporting forms and to recommend proposals to eliminate unnecessary regulations, particularly for small cable television system operators. The 1977 Task Force was created to study problems faced by both the Commission and the industry in preparation to meet the March 31, 1977, deadline for uniform compliance with the rules. These task forces have solicited comments from a wide variety of sources, both industry and government.

Potential amendments are pending currently in some 20 different rule making proceedings. The subjects of these proceedings include definition of a cable system (Docket 20561), subscriber rate regulation (Docket 20681), ownership by foreign interests (Docket 20621), multiple ownership and cross-ownership (Dockets 20520 and 18891), franchise expiration (Docket 20022), franchise fees (Docket 20578), transfers of control (Docket 20023), due process definition (Docket 20019), significantly viewed signals (remaining issue in network program exclusivity proceeding, Docket 19995), use of signal strength contours in cable television regulation (Docket 20496), cablecast channel identification (Docket 19334), program logs for cablecasting (Docket 19128), carriage of radio broadcast signals (Docket 19418), warehousing of feature films (Docket 20402), exclusivity in non-network program arrangements (Docket 18179), technical standards (Docket 20765), and rate regulation (Inquiry

in Docket 20767). For latest Commission actions in these proceedings, write or telephone the FCC Dockets Branch or the Cable Television Bureau.

2 Current Rules, Regulations, and Other Developments

A. Certificate of Compliance (CAC)

The FCC's regulatory plan has as its focal point the Commission's grant of a "certificate of compliance" as a precondition for carrying any television signals that were not lawfully carried by a cable system prior to March 31, 1972. Certification is necessary for the following systems: (1) new cable systems; (2) cable systems all or part of which were authorized prior to March 31, 1972, but which did not actually carry one or more television signals prior to that date; (3) existing systems that wish to add signals not previously authorized or carried; and (4) existing cable systems whose franchise periods have terminated, or March 31, 1977, whichever occurs first.

Elements of CAC Application

Although no standard application form currently exists for certificates of compliance, all elements of a complete application are set forth in the rules. Since the application for certificate for a new cable system has the largest number of elements, a brief description of its elements follows:

1 Cable Television System Proposal

Name and mailing address of the operator.

Community and detailed description of area to be served.

Television signals to be carried.

Date of commencement of operations.

Statement as to whether microwave radio facilities will be used.

2 FCC Form 325

Copy of Form 325, entitled "Annual Report of Cable Television Systems," supplying the information requested as though the cable system already were in operation as proposed.

3 Franchise

Copy of the franchise, certificate, or other authorization granted by state or local authorities to construct and operate a cable television system.

Statement indicating how the franchise complies with the FCC franchising standards.

4 Nonbroadcast Services

Statement that explains how the proposed system's plans, if any, for availability and administration of access channels and other nonbroadcast cable services are consistent with the rules.

5 Signal Carriage

Statement that explains how carriage of the proposed television signals is consistent with the rules, including any special showing as to whether a signal is significantly viewed.

6 Service Statement

Certification that a written notification containing the cable system proposal information (No. 1 above) was served upon local television broadcast licensees and permittees, translator stations, franchising authorities, superintendents of schools, local or state educational television authorities, and state regulatory agencies.

7 Local Availability of Application

Statement that a copy of the completed application has been served on any local or state agency or body asserting authority to franchise, license, certify, or otherwise regulate cable television; and that, if the application is not made available by any such authority for public inspection in the community of the system, the applicant will provide for public inspection of the application at any accessible place in the community during regular business hours.

8 Equal Employment Opportunity

Statement of the proposed system's equal employment opportunity program, if the system will have five or more full time employees continuously during January, February, and March of the year following commencement of operations.

9 Filing Fee

Statement that the filing fee is attached. Fee required for a single application is $15.00; if multiple applications are filed for other communities served by a common headend, a $5.00 fee is required for each additional community.

Applications Required by March 31, 1977

Certain systems are not required to file a CAC application until March 31, 1977. These systems are "grandfathered" under the rules in either of two ways. First, if a cable television system was franchised prior to March 31, 1972, it generally has until March 31, 1977, or until the expiration of its franchise, whichever occurs first,

to comply with the franchise standards. Second, if a system was in operation prior to March 31, 1972, it has until March 31, 1977, to comply with the rules concerning technical standards.

Systems which must file applications for CAC by March 31, 1977, may be categorized as follows: (1) grandfathered systems, (2) systems which were granted certificates based on their "substantial compliance" with the franchise standards, and (3) any other system whose CAC expires on or before March 31, 1977.

A question often asked is: What if a franchise which complies with Commission rules is not obtained by March 31, 1977? The Commission recently spelled out in a public notice that failure to obtain a franchise that fully complies with franchise standards places the operator in violation of the Commission's rules. The ultimate result of such violation could be an order to show cause proceeding which might lead to a cease and desist order being issued against the existing operation. See Public Notice of July 16, 1975, 54 FCC 2d 839, 40 Fed. Reg. 30742 (1975).

B. Franchising Standards

Acknowledging that federal licensing would be an "unmanageable burden" and that the industry is uniquely suited to "a deliberately structured dualism," the Commission adopted minimum standards in 1972 for franchises issued by local governments. These standards relate to the process of selecting a franchisee, franchise duration and fees, the establishment of construction timetables, rates charged to subscribers, and procedures for handling subscriber complaints.

The major franchise standards require that (1) the franchising authority approve a franchisee's qualifications as part of a "public proceeding affording due process;" (2) significant construction begin within one year following the issuance of a certificate of compliance and that the system should extend into a substantial percentage of its franchise area each year, as determined by the franchising authority; (3) franchise fees in excess of 3 percent must be justified as appropriate in light of the local regulatory program; (4) franchise duration should not exceed 15 years; and (5) local authorities regulate rates charged to subscribers for regular subscriber services.

Clarification of the Rules

In April 1974, the Commission adopted a Clarification of the Cable Television Rules and Notice of Proposed Rule Making and Inquiry, 46 FCC 2d 175, 39 Fed. Reg. 14288 (1974), to clarify existing franchise standards and other rules and policies and also to seek comments on proposed additional or modified standards. This document was related to recommendations of the Federal-State/Local Advisory Committee on Regulatory Relationships (FSLAC), which was established by the 1972 Report and Order.

The Commission has issued decisions in four of the seven proceedings initiated in the Clarification. First, it preempted cable television technical standards (Docket 20028). Second, it amended the rules to require cable television franchisees to adopt local complaint procedures, to identify a local official responsible for complaints, and to inform new subscribers about complaint procedures. Third, the Commission adopted an amendment clarifying its line extension requirements for those areas where the entire franchise area is not served (Docket 20020). The new rules on both complaint procedures and line extension apply only to cable systems whose franchises are granted after August 1, 1975. Fourth, the Commission decided to make no change in the franchise duration standard requiring an initial franchise period not exceeding fifteen (15) years and a renewal period of reasonable duration (Docket 20021).

Also in the Clarification, the Commission initiated inquiries in three areas: (1) public proceedings and qualifications for franchisees (Docket 20019); (2) franchise expiration, cancellation and continuation of service (Docket 20022); and (3) transfers of control of cable television franchises (Docket 20023). Decisions are pending in these proceedings.

Rate Regulation

In order to fulfill the requirements of the franchise standards, a cable system's franchise must contain provisions that the franchising authority has specified or approved the initial rates that the franchisee charges subscribers for installation of equipment and regular subscriber services. No increases in rates charged to subscribers may be made except as authorized by the franchising authority after an appropriate public proceeding affording due process. In the proceeding concerning subscriber rate regulation (Docket 20681), the Commission proposes to either delete the rule or to clarify it to take into consideration franchising authorities who do not have authority, under their state law, to exercise rate regulation. The proposed rule states: "If the franchisor has the appropriate authority and elects to exercise rate regulation of regular subscriber services it shall do so only after adopting procedures to insure public notice of any formal consideration of rate increases and an opportunity for the public to be heard." Notice of Proposed Rule Making in Docket 20681, 41 Fed. Reg. 1601 (1976). This rule making relates only to regular subscriber

services rates. The Commission has preempted rate regulation of any other services, such as pay cable, advertising, leased channels, or auxiliary services. See Clarification, 39 Fed. Reg. 14397-(1974).

In April 1976 the Commission initiated a rate regulation inquiry into all aspects of subscriber rate regulation to gather relevant data and information. See Notice of Inquiry in Docket 20767, 41 Fed. Reg. 14929 (1976).

Franchise Fees

A current rule making is pending to permit a certificate of compliance to be issued where the franchise fee exceeds three percent of gross subscriber revenues and an adequate justification is not provided to the Commission. See Notice of Proposed Rule Making in Docket 20578, 40 Fed. Reg. 34613 (1975). In those instances, the higher fee would be invalid, and a roll-back to three percent would be approved. In this regard, note that the franchise fees must be based only on gross subscriber revenues, not on revenues from extra services such as pay cable. A franchise fee between three percent and five percent must be justified by the franchising authority on the cost of the regulatory program, and the operator must demonstrate that it will not interfere with the operation of the system. The Commission does not contemplate the approval of fees that exceed five percent or that are based on other than gross subscriber revenues.

C. Definition of Cable Television System

The present definition of cable television system remains essentially unchanged since its adoption in 1965. Basically, it describes a cable television system as any facility which amplifies or otherwise modified signals transmitting programs broadcast by television or radio stations and distributes them to subscribers. In the 1972 rules a note was added to the definition to give it a community orientation--each separate and distinct community served by a cable television facility constitutes a separate system. The definition excludes facilities with fewer than 50 subscribers and those which serve apartment dwellings.

In August 1975, a new rule making proceeding was initiated to consider the following changes related to definition of a cable television system: (1) an increase in the size of cable systems (number of subscribers) exempted from regulation, or the creation of a category of small systems to which only limited regulation would apply, or some combination of both of these proposals; (2) the possible adoption of regulations for larger master antenna type facilities; (3) a change in the community orientation

currently applied for all regulatory purposes and a corresponding increase in the use of a "headend" concept; and (4) adoption of appropriate grandfathering rules to ease the burdens of any displacements that might result from any changes in application of the rules. See Notice of Proposed Rule Making in Docket 20561, 54 FCC 2d 824, 40 Fed. Reg. 34155 (1975).

D. Signal Carriage

Television signal carriage depends on the geographic location of the community to be served by a cable system. The 1972 carriage rules set up standards of television service which vary with market size. The touchstone is whether a community is located wholly or partially within a 35-mile radius--called the specified zone--of a commercial television station licensed to a major or smaller television market.

"Must Carry" Signals

Certain television broadcast signals are required to be carried by cable television systems, upon request of the television station. Generally, systems located in major or smaller television markets must carry signals from the following broadcast sources:

- All television stations licensed to communities located within 35 miles of the cable system community.
- Noncommercial educational television stations within whose Grade B contour the system community is located.
- Commercial television translator stations with 100 watts or higher power serving the community of the system and noncommercial television translator stations with 5 watts or higher power serving the community.
- Stations whose signals are significantly viewed in the system community. Significant viewing standard: for network stations, a minimum 3 percent share of viewing hours and 25 percent net weekly circulation; for independent stations, a minimum of 2 percent share and 5 percent net weekly circulation.
- All Grade B signals from other smaller markets (applies to systems in smaller markets only).

Systems located outside of all markets must carry signals from the following sources:

- All stations within whose Grade B contour the system community is located.
- Commercial translator stations with 100 watts or higher power serving the community and noncommercial translators with 5 watts

or higher power serving the community.

- Stations whose signals are significantly viewed in the community.

- All educational stations licensed to communities located within 35 miles of the system community.

"May Carry" Signals

A cable system may carry certain other signals, depending upon the size of market in which it is located, up to the following "complements":

First 50 Major Television Markets

Three full network stations and three independent stations.

Second 50 Major Television Markets

Three full network stations and two independent stations.

Smaller Television Markets

Three full network stations and one independent station.

Outside All Television Markets

No restrictions as to number or type of television signals.

These signal complements do not reflect any public right to more program diversity in some communities than in others. Rather, they reflect the Commission's television allocations policy, which is economically based in that the advertising revenues in densely populated areas can support a greater number of television stations than in sparsely populated areas.

In addition to the authorized complement of signals, cable systems in the major markets may carry two additional "bonus" independent stations. However, any distant signals that have been imported (usually via microwave relay) to meet the authorized complement must be deducted from the additional signals permitted. The rationale for permitting at least two additional signals in all major markets is simply that it appears that two signals normally not available in the community of the system is the minimum amount of new service needed to attract a significant number of subscribers and the large amounts of investment capital needed for the construction of new systems.

Cable systems in smaller markets may not import any "bonus" signals other than to meet the specified complement of three network stations and one independent. Under all four sets of carriage rules a cable system may carry more than the authorized complement if the signals are "local."

Leapfrogging Rules Deleted

According to the rules adopted in 1972, cable television systems within television markets were required to carry the closest network affiliates or the closest such stations within their state. Systems importing distant independents from a top-25 market were required to select them from the two closest top-25 markets. The Commission deleted these "leapfrogging" rules in its Report and Order in Docket 20487, 57 FCC 2d 625, 41 Fed. Reg. 3860 (1976), effective February 26, 1976. The new rules provide that cable systems may choose to carry non-must carry network affiliates from anywhere in the country. Those systems permitted to import two or fewer distant independent stations may select them from any market. Those permitted to import three distant independents may select them from anywhere as long as one of them is a UHF station.

Educational Stations

All educational stations within 35 miles of a cable system located outside of all television markets and all educational stations which place a Grade B contour over the community of a system located in major or smaller television markets must be carried by the cable system. Also, all non-commercial educational stations run by an agency of the state in which the system is located must be carried. Any additional educational stations may be carried if there are no convincing objections. These rules have remained unchanged since the 1972 Cable Television Report and Order.

Late-night Programming

In September 1974, the Commission amended its signal carriage rules to allow carriage, within certain limitations, of late-night programming (12:00 a.m. to 6:00 a.m.) of otherwise unauthorized signals. However, problems created by a "join-in-progress" approach prompted a reexamination of the rules since they prevented the availability of a program from start to finish. The rules were again modified in August 1975 to allow cable systems to begin the carriage of any television station's late-night programs at the sign-off of the last local "must carry" station or at 1:00 a.m. in the Eastern and Pacific time zones and midnight in the Central and Mountain time zones. Report and Order in Docket 20028, 48 FCC 2d 699, 39 Fed. Reg. 33528 (1974), and Memorandum Opinion and Order in Docket 20028, 54 FCC 2d 1182, 40 Fed. Reg. 39509 (1975).

Network News

The carriage rules were amended effective February 13, 1976, to allow cable systems to carry network news programs which are not broadcast on any stations carried by the systems at any time when no local station is broadcasting a news

program. This action increases the network news availability for some cable subscribers. See Report and Order in Docket 19859, 57 FCC 2d 68 (1975), 41 Fed. Reg. 1063 (1976).

Specialty Stations

In Docket 20553 the Commission adopted rules classifying television stations carrying a significant amount (defined as 1/3 of prime time and 1/3 of all-day programming) of foreign language, religious or automated programming as "specialty" stations rather than independent stations for purposes of carriage by cable television systems. Therefore, cable systems may carry them without decreasing the number of independent signals which they may carry. The new rules were effective April 19, 1976. Originally, the rules only provided for unlimited carriage of "predominantly" foreign language signals. See First Report and Order in Docket 20553, 41 Fed. Reg. 10895 (1976).

Radio Signals

In 1972 the Commission issued a Notice of Proposed Rule Making in Docket 19418, 36 FCC 2d 630, 37 Fed. Reg. 3191 (1972), which proposed the enactment of rules governing cable carriage of radio signals. The Commission is still examining the issues involved in this proceeding.

E. Program Exclusivity

The Commission determined in 1965 that a cable system's duplication of a local television station's programming through the carriage of distant signals could constitute unfair competition with broadcasters. To equalize the conditions under which cable systems and broadcasters competed, and to ameliorate the risk that cable television would have an adverse economic impact on local television broadcasting service, the FCC adopted mandatory signal carriage and program exclusivity rules for microwave-served systems.

In 1966 the Commission asserted jurisdiction over all cable systems and adopted program exclusivity provisions which required that a cable system located witnin the Grade B or higher signal contour of a television station, upon request of the station licensee or permittee, maintain that station's exclusivity as a program outlet against lower priority duplicating signals also carried on the same day by the cable system. This became known as "same day nonduplication" protection. Priorities under this rule were assigned on the basis of television stations' predicted signal strength contours: Principal

Community, Grade A, Grade B, and a fourth priority for television translator stations with 100 watts or higher power licensed to the cable community.

Network Program Exclusivity

In 1972, in connection with the adoption of new cable television rules, the network program exclusivity provisions were revised to reduce the period of required nonduplication protection from same day to simultaneous duplication, except in the Mountain Time Zone.

The following major changes were adopted in April 1975 in the First Report and Order in 19995, 52 FCC 2d 519, 40 Fed. Reg. 17724 (1975), to bring these rules to their present state:

1 Dual Channel Carriage

Whenever a local station's programming is protected, a cable system may carry the local station on the channel reserved for the programming of the more distant duplicating signal. Under the former rules the protected station could be carried only on one channel, which often resulted in a blacked out channel.

2 Specified Zones

The nonduplication priorities have been replaced by fixed specified zones of protection--a 35-mile zone of protection for stations licensed to major television markets and a 55-mile zone for those licensed to smaller markets.

3 Translator Stations

These stations located within the predicted Grade B contour of their parent station are entitled to nonduplication protection against the duplicating network programming of stations which are more than 55 miles away from the cable system community. In addition, translators licensed to a cable community need not be blacked out to protect other stations.

4 Exemption for Small Systems

Systems serving fewer than 1,000 subscribers per headend are exempted from the requirements of the nonduplication rules. The 1972 rules, which provided no exemptions, were amended in 1974 to exempt systems with fewer than 500 subscribers in the cable system community.

The new rules address several additional matters. First, television stations seeking nonduplication protection must submit

their request to cable systems at least six days prior to the broadcast of the program to be protected and are required to notify the system of last minute schedule changes. The First Report and Order in Docket 19995 includes a sample notification form. Second, the new rules address the problem of program over-runs by allowing a one hour "grace period" during which nonduplication protection need not be provided. The rules do not provide grandfathering rights for either cable systems or television stations with respect to any of the nonduplication rules. Third, stations located in the Mountain Time Zone are now entitled only to simultaneous rather than same-day nonduplication protection. However, the Commission recognizes that some of these stations may require, and may request, more protection. See Second Report and Order in Docket 19995, 54 FCC 2d 229, 40 Fed. Reg. 30650 (1975). The only remaining issue in this proceeding involves "significantly viewed" stations. A Further Notice of Proposed Rule Making in Docket 19995 addresses the problem of requiring nonduplication protection against television signals which are commonly available off-the-air in the cable community.

Broadcast Sports Programming

In June 1975 the Commission adopted for the first time a rule concerning carriage of broadcast sports programming. In general the rule prohibits cable television systems from carrying local sports events broadcast by distant television signals when those events are not available on local television stations. The purpose of this rule is to maintain the integrity of local television sports blackouts. See Report and Order in Docket 19417, 54 FCC 2d 265, 40 Fed. Reg. 30641 (1975). The Commission amended the rule, effective November 14, 1975, to require that notice of programming deletions be given by the holder of the broadcast rights at least no later than Monday preceding the calendar week during which deletions are desired. Programming from any other television station may be substituted for the deleted program. Memorandum Opinion and Order in Docket 19417, 56 FCC 2d 561, 40 Fed. Reg. 53027 (1975).

Syndicated Program Exclusivity

Between 1965 and 1972 the Commission's program exclusivity or nonduplication rules were applied both to network and syndicated programming. These rules required cable television systems, at the request of local stations as defined in the rules, to delete certain programming from lower priority stations' signals. The rules in the Cable Television Report and Order of 1972 made a distinction between network and syndicated programming.

The syndicated program exclusivity rules require that a cable system in the first 50 major markets, upon receipt of notification, cease carrying syndicated programming from a distant signal during a pre-clearance period of one year from the date that such programs are sold for the first time as syndicated programs in the United States. And a cable system located in any major market may not carry a syndicated program to which a commercial television station, licensed to a designated community in the market, has exclusive broadcast exhibition rights. However, there are several exceptions to this prohibition for cable systems located in one of the second 50 major markets.

When a program is deleted pursuant to the syndicated program exclusivity rules a cable system may substitute programming, not otherwise subject to deletion, from any other television broadcast station.

F. Pay Cable

The Commission has been concerned since the early 1950's that the development of subscription television operations, either broadcasting over-the-air or on cable television systems, could result in a loss of conventional television service to the public. To guard against this eventuality the Commission in 1968 adopted rules governing over-the-air subscription television, following extensive proceedings. These rules were later applied to the distribution of cable television cablecast programming for which specific per program or per channel charges are made.

In 1972 the Commission commenced a rule making proceeding (Docket 19554) which resulted in the adoption on March 20, 1975, of new rules regulating subscription programming. The new rules continue to reflect the Commission's policy that the public's access to programming now delivered by conventional television at no direct cost to viewers should not be diminished by subscription operations.

The new rules, though complex, generally provide that only feature films less than three years old, those presently under contract to local television stations, and those not generally desired for conventional telecast may be shown on a subscription basis; sports events shown on conventional television any time during the preceding five years may not be shown. Additionally, no commercial advertising is permitted in connection with the presentation of subscription programming and no more than 90 percent of the total programming may

consist of sports and feature films. See First Report and Order in Dockets 19554 and 18893, 52 FCC 2d 1, 40 Fed. Reg. 15546 (1975).

In a Second Report and Order in Docket 19554, 40 Fed. Reg. 52731 (1975), the Commission deleted the rule restricting the subscription use of series programs by cable systems. The general question of warehousing of feature films is being considered in a Notice of Inquiry in Docket 20402, 52 FCC 2d 87, 40 Fed. Reg. 15576 (1975). The inquiry concerns whether or not broadcast and pay television can buy exclusive rights to programming against each other.

In the Clarification of cable rules the Commission reaffirmed its policy that local authorities were preempted from interfering with nonbroadcast channels provided by cable television systems, including those used for subscription programming. In the proceeding in Docket 19554 the Commission clarified this policy, stating that the complex nature of subscription cablecasting and broadcasting, with implications not coincident with state boundaries, dictates that its regulations emanate from a single source, and that determinations as to when and how to regulate the services must be made at the federal level.

G. Regulation of Nonbroadcast Channels

Although television broadcast signals have been the staple cable service heretofore, the Commission envisioned in 1972 "a future for cable in which the principal services, channel uses, and potential sources of income will be from other than over-the-air signals." Thus, rules were established concerning public, education, local government and leased access channels; minimum channel capacity; and two-way communications. They applied to cable systems in major television markets only; however, cable systems outside of major markets could be required by local authorities to require access or origination services, in which case they would be subject to Commission rules concerning program content control, assessment of costs, and the formulation of operating rules.

While the Commission encourages experimentation, the rules preclude local regulation of access channels, except government access channels. Franchising authorities may not require more access channels or more extensive two-way operation without specific Commission authorization. Cable operators may not censor or exercise any program

content control over material presented on access channels and may not discriminate in making these channels available.

Channel Capacity

The Commission specified in 1972 that, in major television markets, actual or potential capacity of 20 channels for broadcast and nonbroadcast service was "the minimum consistent with the public interest." Additionally, for each broadcast signal carried, cable systems in these markets were to be capable of providing another channel for nonbroadcast services ("one-for-one" rule).

Systems in major markets which began operating prior to March 31, 1972, did not have to comply with these requirements until March 31, 1977. However, in the proceeding in Docket 20363 the Commission canceled this deadline. Furthermore, in its Report and Order in Docket 20508, adopted April 1, 1976, the Commission deleted the major market criterion of the channel capacity requirements. Under the new rules, systems in operation as of March 31, 1972, which currently have less than 20-channel capacity and 3,500 or more subscribers on a "headend" basis would be required to reconstruct to comply with channel capacity requirements by within 10 years. Those systems with 3,500 or more subscribers which already possess 20-channel capacity are not required to rebuild to provide two-way channel capacity. However, new systems with 3,500 or more subscribers are required to provide two-way capacity.

Access Channels

The 1972 Cable Television Report and Order provided that cable systems in the major markets must maintain at least one channel each for public, educational, government, and leased access; and in addition, other portions of their nonbroadcast bandwidth were to be used for leased purposes.

Systems in major markets which began operating prior to March 31, 1972, did not have to comply with these requirements until March 31, 1977. However, if they added television signals to their operations prior to March 31, 1977, they were required to comply with the "one-for-one" rule. In the proceeding in Docket 20363 the Commission canceled the March 31, 1977, deadline for compliance with the access channel requirements and suspended any rebuild requirements pending the outcome of the proceeding in Docket 20508.

Under the new rules in Docket 20508, all systems with 3,500 or more subscribers, regardless of market, are required to provide up to four access channels if they have sufficient activated channel capability to do so and there is demand for full time use of such channels. Otherwise, they are required

to provide composite access services. No system is required to rebuild or add converters to provide access channels. In addition, the Commission deleted the one-for-one rule.

Origination Cablecasting

A cable system may wish to originate programs, the content of which is subject to the system's exclusive control. Such programming is called "origination cablecasting." In 1969 the Commission adopted rules concerning mandatory origination, requiring cable operators of systems with 3,500 or more subscribers to originate programming. This rule was deleted upon adoption of new rules in 1974 (Docket 19988). The present rules, which are now incorporated with the new access rules, do not require a cable operator to originate programming; however, they require the operator to have cablecasting equipment available for public use if the system serves 3,500 or more subscribers.

If a cable system operator engages in origination cablecasting, the operator is subject to rules concerning cablecasts by candidates for public office, handling of controversial issues of public importance (use of Fairness doctrine), lotteries, obscenity, and sponsorship identification.

H. Cable System Ownership

In separate proceedings concluded in February 1970 (Docket 18509) and in June 1970 (Docket 18397), the Commission prohibited cable system ownership by telephone companies within their local exchange areas, by television stations within the same market, by national television networks anywhere in the country, and by television translator stations in the same community as the cable system.

The prohibition against telephone company ownership is designed to eliminate potential anti-competitive and discriminatory practices that could evolve from the local telephone company's monopoly position in the community it serves and its ownership of utility poles, which usually carry the cable system's distribution cables. This rule does not prevent telephone companies from owning cable systems outside their local exchange area or from providing cable facilities (channel distribution service) on a lease or tariff basis for use by an unaffiliated system.

The Commission's rule prohibiting certain types of television-cable cross-ownerships takes into account the growing role of cable systems as program originators and

is designed to ensure vigorous competition among the mass media and to obtain for the public the greatest possible diversity of control over local mass communications media.

In January 1973 the Commission denied petitions for reconsideration of these television-cable cross-ownership rules. At the same time, however, it extended the grace period for divestitures two years, to August 10, 1975, and invited parties affected by the rules to file petitions for waiver of the mandatory divestiture requirement. In September 1975 the Commission further amended this rule to cause divestiture only in those situations which the Commission identifies as "egregious." See Second Report and Order in Docket 20423, 55 FCC 2d 540, 40 Fed. Reg. 44551 (1975).

As part of its continuing concern with patterns of media ownership, the Commission is investigating whether cable system ownership by radio stations and local daily newspapers should be prohibited. An additional question is whether there should be an upper limit on the number of cable systems owned by a single entity nationally or on a regional basis. The Commission has concluded that no rules limiting cable-radio or cable-newspaper cross-ownership are required at the present time but is continuing its study of these matters. See First Report and Order in Docket 18891, 52 FCC 2d 170, 40 Fed. Reg. 14101 (1975).

I. Technical Performance Requirements

In order to assure the delivery of satisfactory television broadcast signals to cable television subscribers, the Commission adopted technical performance requirements in 1972. These requirements, however, do not apply to other types of cable services (such as access channels), cable television receivers, frequency allocations within the cable network, "ghosting", and cable carriage of AM and FM programming. In general, the rules require every cable operator to conduct annual performance tests and to use these results to determine if the system is performing satisfactorily.

The Commission has preempted the area of technical performance requirements to prevent establishment of nonuniform requirements which might hinder system interconnectability and impede the development and marketing of new cable services and equipment.

In 1972 the Commission established a Cable Television Technical Advisory Committee (CTAC), consisting of representatives of states and municipal organizations, the cable television industry, public interest groups, and consulting engineers. In 1975 the Committee submitted its lengthy report to aid the Commission in developing new and more appropriate technical performance requirements. See Cable Technical Advisory Committee Report, FCC Report No. FCC-CTB-75-01, May 1975.

As a result of CTAC recommendations, consideration is being given to modifications in several areas, including: (1) definition of cable television system and major subsystems for purposes of technical regulation; (2) definitions of technical terms, particularly "decibels cable"--a new means of describing signal-to-noise ratios based on a simpler method of calculation; and (3) frequency channeling plans, cable compatible receivers, signal level, synchronizing pulse amplitude and waveform, time base stability of video tape recorders, and distortion measurements.

Experience has shown that the technical rules need to specify, for cable operators, the public and FCC field inspectors, measurement procedures to enable them to tell when the standards are being met. The Commission plans to publish a collection of acceptable measurement procedures which will recognize different cost constraints and different test equipment available among cable systems.

J. Pole Attachment

Cable systems generally are constructed by stringing coaxial cable on existing poles owned by telephone or electric utility companies. Cable systems also may set their own poles, place their coaxial cable underground, or obtain transmission facilities from the local telephone companies.

In January 1970 (Docket 18509) the Commission adopted rules requiring that telephone companies offering cable channel distribution service to cable operators also must make pole attachment rights available to cable companies at reasonable charges and without undue restrictions on the uses that may be made of the cable attached to their poles. The Commission also has instituted an investigatory rule making proceeding (Docket 16928) into the practices and policies of telephone and

electric utility companies and others in permitting cable systems to use their poles, and to ascertain the jurisdiction of the FCC over these policies and practices.

In August 1973 the Commission issued a public notice that the staff had been instructed to draft documents asserting jurisdiction over pole attachments and conduct agreements and arrangements for cable television usage, such jurisdiction to be exercised where adequate provisions had not been made by state or other local jurisdictions. The notice also encouraged interested parties to negotiate mutually satisfactory agreements. In September 1975 the Commission devised a formula from which prices were derived to assist in negotiations between the National Cable Television Association and the American Telephone and Telegraph Company with respect to pole attachment fees. As a result, the parties agreed to increase rates only in California and Pennsylvania and to maintain the status quo until January 1, 1979. Following this agreement, usage of the pricing formula was commended by the FCC to all parties involved in such negotiations.

K. Microwave Auxiliary Facilities

Cable systems, in addition to providing subscribers with off-the-air signals, also obtain signals, sometimes from hundred of miles away, through microwave radio stations. Microwave relay service is available from common carriers in many areas, or cable systems may prefer to operate their own relay stations licensed in the Cable Television Relay Service (CARS).

By Report and Order of November 7, 1969 (Docket 17999), Cable Television Relay Stations were authorized to carry cablecast programming. The CARS rules were further amended to authorize licensing of mobile remote pickup stations for the transmission of programming from the scenes of events outside a studio back to the cable studio or headend, and to provide for the licensing of studio-to-headend link (SHL) stations.

In a separate proceeding (Docket 18452), the FCC on November 7, 1969, adopted rules authorizing a cable local distribution service in the CARS band. These rules contemplate local distribution stations within a cable system, in place of cable, in order to relay program material from a central distribution point to multiple receiving sites within the system.

The CARS rules, adopted prior to 1972, remain basically unchanged, with the exception of minor amendments. Most amendments to CARS rules have been editorial in nature and have not required formal rule making proceedings. In January 1976, the Commission adopted a new form for CARS applications (FCC Form 327).

Certain fees must accompany applications: $20.00 for a construction permit; $5.00 each for license or renewal, for modification of a construction permit or license, for reinstatement of an expired construction permit or license; and $10.00 for assignment of license or of construction permit, or transfer of control.

The CARS rules provide that only cable television system owners or operators or their cooperative enterprises are eligible to be CARS licensees. The service is designed to enable a cable system operator to serve his cable system. However, the rules further state that a CARS licensee also may serve nonaffiliated cable systems based on a cost-sharing, nonprofit arrangement. Such arrangements permit the delivery of cable television programming in instances where the economies might otherwise prevent a small system from utilizing microwave transmission.

The recent advent of satelite-earth station transmission capability adds another dimension to microwave communications. The interface between a receive-only earth station and a CARS network now offers greater flexibility in the distribution of programming to cable systems and a relatively inexpensive means of providing a long-haul transmission capability.

L. Equal Employment Opportunity

Nondiscrimination rules were adopted shortly following the 1972 Report and Order and have remained unchanged. All operators of cable television systems and cable television relay stations are required to afford equal opportunity in employment to all qualified persons and are prohibited from discriminating in employment because of race, color, religion, national origin, or sex.

The rules require all cable operators and CARS licensees to establish and maintain programs designed to assure equal opportunity for females, Blacks, Orientals, American Indians, and Spanish-surnamed Americans in such aspects of employment practice as recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff and termination.

In addition, if systems have five or more full-time employees, they must keep on file with the Commission an up-to-date statement of their equal opportunity program. They also must submit an annual statistical employment report (FCC Form 395) and describe any complaints which have been filed regarding violations of equal employment provisions of federal, state, territorial or local law.

M. Annual Report Forms

The Commission requires every cable system to file two principal annual report forms--FCC Form 325 (general information, cable services, and ownership data) and FCC Form 326 (financial information). All data are solicited on a community-by-community basis. Information on Form 326 is not routinely available for public inspection because of its proprietary nature; however, data from both forms is used by the Commission in cable policy and research efforts. The style of these forms was changed in 1975 to conform to computerization requirements.

3 Citizen Participation in Regulatory Processes

The Commission encourages meaningful input from the public. In March 1976 it established a Consumer Assistance Office to assist persons who seek to participate in FCC processes but who may be unfamiliar with the procedures. Inquiries to this office may be made by telephone (202/632-7000) or they may be addressed to Consumer Assistance Office, Room 258, FCC, 1919 M Street, N. W., Washington, D. C. 20554.

Any member of the public may participate in formal adjudicatory proceedings before the Commission. These may involve applications for certificates of compliance, petitions for waiver of the rules or other special relief, and show cause requests. Procedures for participation are described below. Although the procedures emphasize informal presentations, the filing of an original and 9 copies of any pleading is recommended for maximum exposure of one's point of view to Commission staff.

A. Oppositions to CAC Applications

FCC processing of an application for certificate of compliance gives citizens an opportunity to raise any issue concerning a system's compliance with the rules. An individual or group may comment by filing an "opposition" to an application. Such opposition need not be long and legalistic; a short and simple document is sufficient, as long as it sets out basic allegations of

fact and some supporting documentation--for example, affidavits, minutes of local government meetings, etc. Copies of any opposition should be sent to the cable system, the franchising authority, and the Commission. FCC rules allow any person to file an opposition to a certificate application within 30 days after the Commission gives public notice of the application.

Although the public notices are not distributed throughout the country, a listing of applications may be obtained from any one of several trade publications. Moreover, a cable system must serve a copy of its application upon the local regulatory or franchising body and must make it available for public inspection. By reading trade publications and keeping in touch with local officials, the public thus can learn when a cable system has filed a certificate of compliance application.

B. Requests for Special Relief or Waiver

The Commission's rules allow a cable system to seek special relief or waiver of any rule at any time. Opposition to such requests must be filed within 30 days after the request has been submitted. The FCC gives public notice of these requests and the public usually may obtain a list of such filings through the channels noted above.

In addition, cable systems must make copies of special relief and waiver requests available locally for inspection. As in the case of certificate applications, a citizens' group or an individual may challenge the request for special relief or waiver by filing an opposition. Once again, an opposition must be intelligible, supported by appropriate documentation, and should reflect the position of an "interested party." Copies should be sent to the cable system, the franchising authority, and the Commission.

C. Orders to Show Cause

The Commission's issuance of an order to show cause begins a proceeding similar to a civil suit for an injunction; if the complainant prevails at the hearing, the Commission issues a cease and desist order. Interested parties may begin such a proceeding by filing with the Commission a petition for issuance of an order to show cause, which is subsequently placed on public notice.

Such petitions usually seek to remedy an alleged violation of the Commission's rules. A copy of the petition should be sent to the cable system and other interested parties. It is possible, however, for an individual or group to join a cable system in *opposing* a request for an order to show

cause. Once all the pleadings have been submitted, the Commission reviews the arguments and determines whether an order to show cause should be issued.

D. Rule Making Proceedings

The Commission continually is in the process of adopting new rules or amending old ones. Since many of these rules have widespread impact, the public may wish to participate.

The rule making process usually begins with the issuance of a "notice of proposed rule making" by the FCC. As the name implies, such a notice proposes a particular rule and invites public comments within a specified time period--usually 30 days or more. The notice is published in the Federal Register, which is available in major libraries. Also, trade publications generally report the issuance of a rule making notice.

The rules require that an original and 11 copies of comments be filed. If one submits only an original, this may greatly decrease the number of Commission officials who will see it. Thus, it is important to file the required number of copies.

Anyone may petition the FCC to adopt a rule at any time. Such a petition should set forth the text or substance of the proposed rule and provide supporting views, arguments and data. Again, it is preferable to file an original and 11 copies.

E. Local Public Records

In March 1974 the Commission initiated a new proceeding questioning whether the cable television rules provided "adequate procedures for public participation in our processes." It further noted that: "If the public is to play an informed role in the regulation of cable television, it must have at least basic information about a system's operations and proposals." Thus, new rules were adopted, effective September 1974, and amended in May 1975, to specify the records which a cable system must maintain locally for public inspection. These records generally include a copy of the franchise, application(s) for certificate of compliance, any petitions for special relief or show cause, and FCC annual reports. They must be maintained at the system's local office or another accessible place in the community. See Report and Order in Docket 19948, 48 FCC 2d 72, 39 Fed. Reg. 29185 (1974), and Memorandum Opinion and Order in Docket 19948, 53 FCC 2d 506, 40 Fed. Reg. 25022 (1975).

F. Cable Complaint Service

In January 1974 the FCC Cable Television Bureau established a Cable Complaint Service to deal with a number of

problems involving cable television systems. Its functions include: (1) attempting to clear up misunderstandings between subscribers (and/or state and local governments) and cable systems with regard to Commission rules; (2) dealing with complaints about a system's service; and (3) helping local governments to structure complaint procedures. The Service attempts to resolve disputes on an informal basis; where merited, however, it may request that an FCC investigation be conducted and/or may institute formal legal action.

Under the dual jurisdictional approach exercised by the Commission and state and local authorities over cable television, several important areas of consumer concern are administered by local authorities instead of the FCC. These areas include subscriber rates and installation fees, inaccurate bills and questionable billing practices, damage to property, illegal taps, extention of cable service to individual homes and businesses, repairs, improper wiring, and false or misleading advertising concerning the cable system's capabilities.

The Cable Complaint Service is interested particularly in technical quality and interference problems. However, knowing the origin of the problem is the first step in determining where to direct a complaint. For example, if a broadcast television station which is carried by the cable system experiences frequent outages or distortions, the complaint should be filed with the Complaints and Compliance Division of the FCC's Broadcast Bureau. Interference generated by Citizens Band or amateur radio station operations should be addressed to the Commission's Field Operations Bureau. Problems involving Master Antenna Systems (MATV) should be directed to consumer groups or other community organizations, since such operations are not regulated by the Commission.

Complaints related to FCC cable regulations may be filed by writing to the Cable Complaint Service, Cable Television Bureau, Federal Communications Commission, 1919 M Street, N. W., Washington, D. C. 20554, or by calling (202) 632-9703.

G. Cable Television Bureau

The FCC's Cable Television Bureau is responsible for implementing the Commission's cable television regulatory program. It is composed of four operating Divisions--Certificates of Compliance, Special Relief and Microwave, Policy Review and Development, and Research.

Members of the Bureau's staff welcome inquiries from the public. By contacting the appropriate division listed below, a person can obtain assistance in participating in the Commission's processes.

Bureau Organization	Telephone (Area Code 202)
Office of Bureau Chief	632-6480
Certificates of Compliance Division	254-3407
Policy Review and Development Division (Rule Makings)	632-6468
Research Division	632-9797
Special Relief and Microwave Division	632-8882
Special Relief and Enforcement Branch (& Cable Complaint Service)	632-9703
Microwave Branch	254-3420
Records and Systems Management Branch (Public Reference Room)	632-7076

The Cable Television Bureau is located at 2025 M Street, N. W., 6th floor. The following mailing address should be used: Cable Television Bureau, Federal Communications Commission, 1919 M Street, N. W., Washington, D. C. 20554.

4 How to Obtain the Rules

Every cable operator is required by the FCC to have an up-to-date copy of the Cable Television Rules and Regulations (47 CFR Part 76) and to keep track of Commission actions that might alter them. These rules are available in loose leaf form on a subscription basis through the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20401. Changes in the rules are forwarded to subscribers within a few months after their adoption by the Commission, without additional charges. To order, request Volume III of the FCC Rules and Regulations, September 1972 edition (Catalog No. CC 1.6/3:972; Price: $12.15). A new Volume XI containing Parts 76 (Cable Television Service) and 78 (Cable Television Relay Service) will be issued in 1976. Current subscribers to Volume III will be notified concerning this change.

Another means of keeping informed of rule changes is through the Federal Register, published daily by the Office of Federal Register and distributed by the U. S. Government Printing Office (address above). A yearly subscription to the Federal Register is $50.00 (Catalog No. GS 4.107). The Office of Federal Register also publishes an annual cumulation of the rules as Code of Federal Regulations, Title 47, Parts 70-79. This publication is revised as of October 1 each year and is available in paperback from the above address for $4.60 (Catalog No. GS 4.108:47 Parts 70-79).

A pamphlet containing policy documents and the rules adopted in 1972, entitled Cable Television Report and Order and Reconsideration, is available upon request from the Cable Television Bureau.